

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF HAWAII

UNITED STATES OF AMERICA

Plaintiff,

v.

WILBERT KAIMIKAUA AND DEANNA
KAIMIKAUA,

Defendants.

Civil No. CV08-00045 JMS KSC

**FINDINGS AND RECOMMENDATION
TO GRANT UNITED STATES'
MOTION FOR DEFAULT JUDGMENT
REGARDING UCC FINANCING
STATEMENTS DOCUMENT
NUMBERS 2005-248161 and 2005-
158561 FILED WITH THE HAWAII
BUREAU OF CONVEYANCES**

I. BACKGROUND

The United States filed an amended complaint in this matter on or about January 13, 2009, that requested that the Court adjudge and declare two Uniform Commercial Code (“UCC”) Financing Statements filed by Defendants Wilbert Kaimikaua and Deanna Kaimikaua (hereafter “the defendants”) with the Bureau of Conveyances for the State of Hawaii null, void and of no legal effect. The Clerk of the Court entered a default against the defendants on February 23, 2009. Thereafter, on or about March 13, 2009, the United States filed a Motion for Default Judgment, a Memorandum in Support of the Motion and the Declarations of Internal Revenue Service (“IRS”) employees Susan Meredith, Thomas D. Mathews and Dennis L. Parizek and United States Department of Justice Tax Division (“DOJ”) Trial Attorney Charles M. Duffy.

The matter came on for hearing on April 14, 2009 before Magistrate Judge Kevin S.C. Chang. DOJ Attorney Charles M. Duffy represented the Government’s interests at the hearing. The defendants did not appear at the hearing despite having received notice.

II. FINDINGS

1. The UCC Financing Statements at issue in the amended complaint are:

- a. UCC Financing Statement, Document Number 2005-248161 filed with the Hawaii Bureau of Conveyances on December 5, 2005, which falsely described IRS employee Susan Meredith as a debtor and that she owed \$9,888,000.00; and
- b. UCC Financing Statement, Document Number 2005-158561 filed with the Hawaii Bureau of Conveyances on August 10, 2005, which falsely described IRS employees Dennis L. Parizek and Thomas D. Mathews as debtors and that each owed \$7,500,000.00 or more.

2. Based on their declarations, at one time or another the automated signatures of IRS employees Susan Meredith, Dennis L. Parizek and Thomas D. Mathews (hereafter “the referenced IRS employees”) may have been on correspondence that the defendants received from the IRS.

3. None of the referenced IRS employees are personally acquainted with the defendants and they have not had contact or a relationship with them other than in their official capacities as IRS employees.

4. None of the referenced IRS employees ever engaged in any contracts or personal transactions with either of the defendants and none of them owe the defendants any money.

5. Because of the filing of the subject UCC filings, the referenced IRS employees have experienced stress and anxiety and are concerned that the filings may have a negative impact on their permanent credit record.

6. The defendants did not respond to the Government’s amended complaint or its motion for default judgment but they have filed many documents that were served on them in this case that they then marked with various handwritten notations and comments.

7. In *United States v. Wilbert Kaimikaua and Deanna Kaimikaua*, Civil Number

06-0511 JMS/KSC (D. Haw.), the Court entered an order on November 26, 2007 that permanently enjoined the defendants herein from “filing any document or instrument which purports to create a non-consensual lien or encumbrance of any kind against any employee or officer of the IRS or other persons who authorized or performed any act in connection with the assessment or collection of defendants’ tax liabilities.” The referenced Order was entered after the filing of the two UCC statements that are at issue in the instant case.

III. RECOMMENDATION

Based on the above and good cause appearing therefore this Court RECOMMENDS the following:

- UCC Financing Statement, Document Number 2005-248161 filed with the Hawaii Bureau of Conveyances on December 5, 2005 be adjudged and declared null, void and without legal effect against Susan Meredith; and
- UCC Financing Statement, Document Number 2005-158561 filed with the Hawaii Bureau of Conveyances on August 10, 2005 be adjudged and declared null, void and without legal effect against Dennis L. Parizek and Thomas D. Mathews.

The United States be permitted to file a copy of this order with the State of Hawaii Bureau of Conveyances. Further, that the Clerk of Court be directed to close this case file.

IT IS SO FOUND AND RECOMMENDED.

DATED at Honolulu, Hawaii, May 11, 2009.




Kevin S.C. Chang
United States Magistrate Judge

CIVIL NO. CV08-00045 JMS KSC; UNITED STATES V. KAIMIKAUA ET AL.; FINDINGS AND RECOMMENDATION TO GRANT UNITED STATES’ MOTION FOR DEFAULT JUDGMENT REGARDING UCC FINANCING STATEMENTS DOCUMENT NUMBERS 2005-248161 and 2005-158561 FILED WITH THE HAWAII BUREAU OF CONVEYANCES